

PATENT
Atty. Dkt. No. OLYM/0095**REMARKS**

This is intended as a full and complete response to the Final Office Action dated April 6, 2005, having a shortened statutory period for response set to expire on July 6, 2005. Please reconsider the claims pending in the application for reasons discussed below.

Information Disclosure Statement

Applicants respectfully request acknowledgement and consideration of the Information Disclosure Statement mailed March 25, 2005.

Claim Rejections - 35 U.S.C. § 102 (Malard et al.)

Claims 26 and 27 stand rejected under 35 U.S.C. § 102(e) as being anticipated by *Malard et al.* (U.S. Patent No. 6,735,879).

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Further, the elements must be arranged as required by the claim. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

The Examiner states that *Malard et al.* '879 discloses "a locking mechanism (22) for selectively securing said sharpened projections in a retracted position." This statement alone fails to establish that sliding levers (the so called locking mechanism) have a locked position that substantially prevents the sharpened projections from extending. Rather, the pins disclosed in *Malard et al.* '879 can always be freely extended by simply pushing the levers, which lack any position that prevents extension of the pins. Therefore, *Malard et al.* '879 fails to teach, show or suggest each and every limitation in claim 26, and this failure precludes *Malard et al.* '879 from anticipating the claim. Accordingly, Applicants respectfully request withdrawal of the rejection and allowance of the claim.

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Regarding claim 27, *Malard et al.* '879 does not disclose a locking mechanism that includes at least one rib within a base of a laser level assembly that aligns in an unlocked position and misaligns in a locked position with at least one slot in a circumference of a retractable sharpened projection. In fact, this limitation is not even addressed in the rejection. Therefore, *Malard et al.* '879 fails to teach, show or suggest each and every limitation in claim 27, and this failure precludes *Malard et al.* '879 from anticipating the claim. Accordingly, Applicants respectfully request withdrawal of the rejection and allowance of the claim.

Claims 22-25 stand rejected under 35 U.S.C. § 102(e) as being anticipated by *Chen* (U.S. Patent No. 6,763,598).

The Examiner states that *Chen* discloses a second lens that provides an asymmetrical linear dispersion. However, no reference or citation for where such a lens is disclosed in *Chen* is provided by the Examiner. Further, Applicants cannot locate any teaching relating to symmetry of dispersion in *Chen*. Symmetry of dispersion relates to whether light from the laser is dispersed in two opposing directions equally to form a line (symmetrical linear dispersion) or is dispersed more in one direction than the other (asymmetrical linear dispersion). *Chen* discloses three lenses that provide a dot, a horizontal line, and a vertical line, respectively, without any indication that the linear dispersions providing the horizontal and vertical lines are different from one another with respect to their symmetry of dispersion. Therefore, *Chen* fails to teach, show or suggest each and every limitation in claim 22 and claims 23-25 dependent thereon. Accordingly, Applicants respectfully request withdrawal of the rejection and allowance of the claims.

Claim Rejections - 35 USC § 103

Claim 1 stands rejected under 35 U.S.C. 103(a) as being unpatentable over *Chen* in view of *Schwandt* (U.S. Patent No. 5,063,679).

In response, Applicants amended claim 1 to include the limitation previously in claim 41, which depended from claim 1 and was objected to as being based upon a rejected base claim but would be allowable if rewritten in independent form. Accordingly, Applicants submit that claim 1 is patentable over the cited references and

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respectfully request withdrawal of the rejection and allowance of the claim.

Claim 28 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over *Malard et al.* '879 in view of *Schwandt*. Claim 31 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over *Malard et al.* '879 in view of *Tursi* (U.S. Patent No. 4,924,297). Claim 30 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over *Malard et al.* '879 in view of *Claxton* (U.S. Patent No. 5,394,616). Claim 29 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of *Malard et al.* '879 and *Schwandt* in view of *Dawson* (U.S. Patent No. 5,279,524).

In response, Applicants submit that claims 28-31 are patentable over the cited references based at least on the traversal presented above regarding claim 26 from which these claims depend. Accordingly, Applicants respectfully request withdrawal of the rejections and allowance of the claims.

Claims 38 and 40 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *Malard et al.* (U.S. Publication No. 2004/0004825) in view of *Schwandt* and further in view of *Dawson*.

In response, the cited references, alone or in combination, fail to teach, show or suggest rotating an adjustment handle to rotate a portion of a laser level within a plane of the surface that the laser level is attached to, as recited in claim 38. The Examiner states that the references disclose "rotating an adjustment handle (15) to provide micro adjustments of the laser level relative to the surface and within a plane of said surface." However, rotating a pivot knob (15) disclosed in *Malard et al.* '825 pivots working portions of a laser light generator within a plane that is perpendicular to a plane of the surface that the laser light generator is attached instead of rotating the working portions within the plane of the surface (which is the same plane as the plane defined by base 14 of the laser level). Additionally, other leveling adjustments to the laser light generator disclosed in *Malard et al.* '825 move the generator in and out of the plane of the surface that the laser light generator is attached (i.e., not rotation within the plane of the surface). The device disclosed in *Malard et al.* '825 does not rotate within the plane of the surface that it is attached to in order to insure projection of a level line since the device disclosed therein is designed to be mounted on a horizontal surface such that rotation within the plane of the surface would actually not affect the projections

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levelness. Further, *Schwandt* and *Dawson* are completely silent regarding adjustments to devices disclosed therein relative to a surface after attaching the devices to the surface. For these reasons, *Malard et al.* '825 in view *Schwandt* and in further combination with *Dawson* cannot render claim 38 and claim 40 dependent thereon obvious. Accordingly, Applicants respectfully request withdrawal of the rejection and allowance of the claims.

Allowable Subject Matter

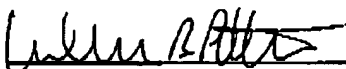
Claims 2, 4-10, 12-15, 19-21 and 33-37 are indicated to be allowed. Applicants acknowledge allowance of these claims.

Claims 39 and 41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In response, Applicants have amended claim 1 to include the limitation of claim 41 that depended from claim 1. Applicants submit that claim 39 is patentable based on the traversal presented above regarding claim 38 from which claim 39 depends.

Conclusion

The references cited by the Examiner, alone or in combination, do not teach, show, or suggest the invention as claimed. Having addressed all issues set out in the Final Office Action, Applicants respectfully submit that the claims are in condition for allowance and respectfully request that the claims be allowed.

Respectfully submitted,



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